IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 13TH JUNE 2007 / 23RD JYAISHTA 1929

WP(C).No. 16423 of 2007(E)

PETITIONER:

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1. K.M.SAMUEL,
KUMBALANGEL HOUSE, MOONILAVU, CHOOVOOR P.O.

2. NOBLE KINGSLY,
PUSHPA COTTAGE, MURSANCODE,
NEYYOOR P.O., KANYAKUMARI DISTRICT.

BY ADV. SRI.SHAJI THOMAS PORKKATTIL
SRI.BINU PAUL

RESPONDENTS:

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1. SUPERINTENDENT OF POLICE,
CRIME BRANCH, KOTTAYAM.

ADDL.2. GINCY @ MAYA, W/O.NOBLE KINGSLY,
PUSHPA COTTAGE,
MURSANCODE,
KANYAKUMARI.

BY GOVERNMENT PLEADER SRI.M.S.BREEZ
R2 BY SRI.N.NAGARESH

(2nd respondent is impleaded as per order dt.13.06.07 in I.A. No.7889 of 2007)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

R.BASANT, J

W.P(C).No.16423 of 2007

Dated this the 13th day of June, 2007

JUDGMENT

Petitioners are father-in-law and son-in-law. The 2nd respondent is the daughter of the 1st petitioner and wife of the 2nd petitioner. During her minority, the 2nd respondent is alleged to have eloped with the 2nd petitioner. The 1st petitioner, on coming to know that his right of guardianship was offended, moved the authorities. A crime was registered under Sections 355, 365 A and 363 I.P.C. The 2nd respondent was brought back. But she again eloped with the 2nd petitioner and in respect of that, yet another crime was registered as Crime No.85 of 2005. Both crimes are being investigated now by the 1st respondent.

2. While so, the father-in-law, son-in-law and the 2nd respondent have settled all their disputes. Harmony has returned. The 2nd petitioner has married the 2nd respondent with the consent of the 1st petitioner and his wife. There has been a happy ending of the entire disputes. The spouses are now living together. A child is born in the wedlock.

3. In these circumstances, the petitioners have come before this Court with a prayer that they may be saved of the trauma of the continuance of these prosecutions. The 2nd respondent was not

initially impleaded. As directed by the Court, the 2nd respondent has also come on record. Counsel for the petitioners and the 2nd respondent assert that all the outstanding disputes have been settled between the parties. Marriage has taken place. Spouses are residing together and a child is born to them. They pray that the proceedings which are now pending before the police may be quashed and they may be saved of the trauma of continuance of such prosecutions.

4. The offences alleged are not legally compoundable under Section 320 Cr.P.C. The counsel hence rely on the dictum in **B.S.Joshy v. State of Haryana** [A.I.R (2003) SC 1386]. The learned counsel submit that, that decision is authority for the proposition that the interests of justice may at times transcend the interests of mere law and in such circumstances the stipulations in Section 320 Cr.P.C cannot be reckoned as a fetter on the width, sweep and amplitude of the powers of this Court under Section 482 Cr.P.C.

5. I am satisfied from the submissions made at the Bar and the averments in the petition that the parties have settled their disputes amicably. I am satisfied that this is an eminently fit case where the dictum in **B.S.Joshy v. State of Haryana** [A.I.R (2003) SC 1386] can and ought to be invoked to bring to premature termination the investigation pending against the 2nd petitioner in Crime Nos.70 of 2005 and 85 of 2005 of Melukavu Police Station which are now being

investigated by the Crime Branch as Crime Nos.176 CR/KTM/06 and 177/CR/KTM/06.

6. In the result, this Writ Petition is, allowed. All further proceedings in the said crimes are hereby quashed.

(R.BASANT, JUDGE)

rtr/-